

## § 2.32

related to intervention in, and prevention of domestic violence.

(c) The term *DOL* means the U.S. Department of Labor.

(d) The term *DOL-supported social service program*, *DOL social service program*, or *DOL program* means a social service program, as defined in paragraph (b) of this section, that is administered by or for DOL with DOL support. Such programs include, but are not limited to, the One Stop Career Center System, the Job Corps, and other programs supported through the Workforce Investment Act.

(e) The term *DOL social service provider* means any non-Federal organization, other than a State or local government, that seeks or receives DOL support as defined in paragraph (g) of this section, or participates in DOL programs other than as the ultimate beneficiary of such programs.

(f) The term *DOL social service intermediary provider* means any DOL social service provider that, as part of its duties, selects subgrantees to receive DOL support or subcontractors to provide DOL-supported services, or has the same duties under this part as a governmental entity.

(g) The term *DOL support* means Federal financial assistance, as well as procurement funding provided to a non-Federal organization, including a State or local government, to support the organization's administration of or participation in a DOL social service program as defined in paragraph (d) of this section.

### § 2.32 Equal participation of religious organizations.

(a) Religious organizations must be eligible, on the same basis as any other organization, to seek DOL support or participate in DOL programs for which they are otherwise eligible. DOL, DOL social service intermediary providers, as well as State and local governments administering DOL support, must not discriminate for or against an organization on the basis of the organization's religious character or affiliation, although this requirement does not preclude DOL, DOL social service providers, or State and local governments administering DOL support from accommodating religion in a manner con-

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sistent with the Establishment Clause. In addition, because this rule does not affect existing constitutional requirements, DOL, DOL social service providers (insofar as they may otherwise be subject to any constitutional requirements), and State and local governments administering DOL support must continue to comply with otherwise applicable constitutional principles, including, among others, those articulated in the Establishment, Free Speech, and Free Exercise Clauses of the First Amendment to the Constitution.

(b) A religious organization that is a DOL social service provider retains its independence from Federal, State, and local governments and must be permitted to continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, subject to the provisions of § 2.33 of this subpart. Among other things, such a religious organization must be permitted to:

(1) Use its facilities to provide DOL-supported social services without removing or altering religious art, icons, scriptures, or other religious symbols from those facilities; and

(2) Retain its authority over its internal governance, including retaining religious terms in its name, selecting its board members on a religious basis, and including religious references in its mission statements and other governing documents.

(c) A grant document, contract or other agreement, covenant, memorandum of understanding, policy, or regulation that is used by DOL, a State or local government administering DOL support, or a DOL social service intermediary provider must not require only religious organizations to provide assurances that they will not use direct DOL support for inherently religious activities. Any such requirements must apply equally to both religious and other organizations. All organizations, including religious ones, that are DOL social service providers must carry out DOL-supported activities in accordance with all applicable legal and programmatic requirements, including those prohibiting the use of direct DOL support for inherently religious activities. A grant document,

contract or other agreement, covenant, memorandum of understanding, policy, or regulation that is used by DOL, a State or local government, or a DOL social service intermediary provider in administering a DOL social service program must not disqualify organizations from receiving DOL support or participating in DOL programs on the grounds that such organizations are motivated or influenced by religious faith to provide social services, have a religious character or affiliation, or lack a religious component.

**§ 2.33 Responsibilities of DOL, DOL social service providers and State and local governments administering DOL support.**

(a) DOL, DOL social service intermediary providers, DOL social service providers in their use of direct DOL support, and State and local governments administering DOL support must not, when providing social services, discriminate for or against a current or prospective program beneficiary on the basis of religion or religious belief. This requirement does not preclude DOL, DOL social service intermediary providers, or State or local governments administering DOL support from accommodating religion in a manner consistent with the Establishment Clause of the First Amendment to the Constitution.

(b)(1) DOL, DOL social service providers, and State and local governments administering DOL support must ensure that they do not use direct DOL support for inherently religious activities such as worship, religious instruction, or proselytization. DOL social service providers must be permitted to offer inherently religious activities so long as they offer those activities separately in time or location from social services receiving direct DOL support, and participation in the inherently religious activities is voluntary for the beneficiaries of social service programs receiving direct DOL support. For example, participation in an inherently religious activity must not be a condition for participating in a directly-supported social service program.

(2) This regulation is not intended to and does not restrict the exercise of

rights or duties guaranteed by the Constitution. For example, program officials must not impermissibly restrict the ability of program beneficiaries or DOL social service providers to freely express their views and to exercise their right to religious freedom. Additionally, subject to reasonable and permissible time, place and manner restrictions, residential facilities that receive DOL support must permit residents to engage in voluntary religious activities, including holding religious services, at these facilities.

(3) Notwithstanding the requirements of paragraph (b)(1), and to the extent otherwise permitted by Federal law (including constitutional requirements), direct DOL support may be used to support inherently religious activities, and such activities need not be provided separately in time or location from other DOL-supported activities, under the following circumstances:

(i) Where DOL support is provided to chaplains to work with inmates in prisons, detention facilities, or community correction centers through social service programs;

(ii) Where DOL support is provided to social service programs in prisons, detention facilities, or community correction centers, in which social service organizations assist chaplains in carrying out their duties; or

(iii) Where DOL-supported social service programs involve such a degree of government control over the program environment that religious exercise would be significantly burdened absent affirmative steps by DOL or its social service providers.

(c) To the extent otherwise permitted by Federal law, the restrictions set forth in this section regarding the use of direct DOL support do not apply to social service programs where DOL support is provided to a religious or other non-governmental organization indirectly within the meaning of the Establishment Clause of the First Amendment to the Constitution. Religious or other non-governmental organizations will be considered to have received support indirectly, for example, if as a result of a program beneficiary's genuine and independent choice the beneficiary redeems a voucher, coupon,